IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

AT HYDERABAD

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO.3068 OF 2002

DATED: 22-08-2005

BETWEEN:

Lutheran High School Petitioner

And

The Govt of A.P.

Rep by its Secretary,

School Education Department, Secretariat,

Hyderabad & others Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 3068 OF 2002

ORDER:

The present writ petition is filed questioning the action of the respondents in not according permission to fill up the teaching staff in the petitioner school.

Andhra Evangelical Lutheran Church is a registered society running several

educational institutions including the petitioner school herein. While so, certain posts of teachers fell vacant and in terms of G.O.Ms.No.1 Education Department dated 1-1-1994, the petitioner management submitted proposals to 4th respondent on 20-2-2001 seeking permission to recruit staff. As per the instructions of the 4th respondent, the Deputy Educational Officer, Rajahmundry, inspected the petitioner school and submitted a report. Thereafter, the 4th respondent vide proceedings dated 5-4-2001 submitted the proposals to 2nd respondent recommending to accord necessary permission. It is alleged that though the said proposals were received by the 2nd respondent in the year 2001, but till date no action is taken in the matter.

It is stated that petitioner school being a minority institution, is exempted from following the roster and rule of reservation under
Rule 12 (6) of G.O.Ms.No. 1 dated 1-1-1994. Rule 12 of the said Government Order was amended by G.O. Ms. No. 76 dated 2-11-1999 prescribing a condition that before filling up the aided teaching posts, the recruiting agency shall necessarily obtain clearance from the District Level Surplus Man Power Cell under the control of the District Collector. It is further stated that G.O.Ms.No.76 dated 2-11-1999 was struck down by a Division Bench of this Court in W.P. No.11750 of 2000 dated 9-11-2001 as being ultra vires the provisions of Article 31 of the Constitution of India.

Though, the writ petition was filed and admitted in the year 2002 and underwent several adjournments to enable the respondents to file a counter affidavit, till date the counter affidavit is not filed.

Learned counsel for petitioner submitted that similar writ petition i.e., W.P. No. 12627 of 2001 was disposed of by this Court by order dated
28-06-2001 and in pursuance of the said orders of this Court necessary permission was accorded to petitioner therein by the first respondent vide proceedings Memo No. 15106/PS-1/2001 dated 11-10-2001. The operative portion of the said order reads as under:

> *"Having regard to the facts and circumstances of the case, I consider it appropriate to direct the 2nd respondent to consider the proposals already submitted by the 4th respondent and take an appropriate decision in accordance with law and communicate the decision to be taken to the petitioner herein within a period of six weeks from the date of receipt of a copy of this order. It is needless to observe that this Court has not expressed any opinion on the merits of the case and it shall be perfectly open to the 2nd respondent to consider the proposals*

submitted by the 4th respondent in accordance with law and take an appropriate decision in the matter."

Learned Government Pleader for Education admitted the same and submitted that the writ petition may be disposed of in terms of orders passed in W.P. No. 12627 of 2001 dated 28-06-2001.

Accordingly, the present writ petition is disposed of directing the second respondent to consider the proposals submitted by 4th respondent and to take an appropriate decision in the matter on merits and in accordance with law and communicate the same to the petitioner within a period of six weeks from the date of receipt of copy of this order.

_____

N.V.RAMANA,J

22-08-2005

TVK\

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 3068 OF 2002

Date: 22-08-2005